

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK**

In re: Oral Phenylephrine Marketing and
Sales Practices Litigation

This document relates to:

All actions.

Case No. 1:23-md-03089-BMC

NOTICE OF MOTION

ORAL ARGUMENT REQUESTED

PLEASE TAKE NOTICE that the undersigned Defendants by their respective counsel, upon the accompanying Memorandum of Law dated June 3, 2024, and all prior pleadings and proceedings herein, will move this Court, before the Honorable Brian M. Cogan, at the United States Courthouse, 225 Cadman Plaza East, Brooklyn, New York 11201, as soon as counsel may be heard, for an order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure granting Defendants' Motion to Dismiss Plaintiffs' Initial Streamlined Consolidated New York Bellwether Class Action Complaint.

The Initial Streamlined Complaint named some, but not all, of the Defendants in this MDL as Defendants. However, undersigned Defendants are authorized to report on behalf of all Defendants that all Defendants who are not named in the Initial Streamlined Complaint are entitled to dismissal from all actions in the MDL for the same reasons as the named Defendants because the Court's decision on this motion "will apply to all cases in this multidistrict litigation or otherwise subject to transfer into this multidistrict litigation." ECF No. 204 at 2. Further, Defendants do not waive the right to raise any additional arguments for dismissal under Rule 12 of the Federal Rules of Civil Procedure unrelated to preemption and initial RICO arguments. *See id.* at 3.

June 3, 2024

Respectfully Submitted,

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